

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

TIMOTHY SIMMS,	:	Case No. 2:22-cv-474
	:	
Petitioner,	:	
	:	
vs.	:	Judge Edmund A. Sargus, Jr.
	:	Magistrate Judge Peter B. Silvain, Jr.
	:	
KEITH FOWLEY,	:	
	:	
Respondent.	:	

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**ORDER**

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This habeas corpus matter is before the Court for a preliminary review of the Petition. (Doc. 4). Petitioner has paid the filing fee, satisfying this Court's previous orders. (Doc. 6, 8).

Upon preliminary consideration pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the Court finds that it does not plainly appear from the face of the Petition and any exhibits attached thereto that Petitioner is not entitled to relief in this Court. Accordingly, Respondent is **ORDERED** to file an answer conforming to the requirements of Rule 5 of the Rules Governing Section 2254 Cases **WITHIN SIXTY DAYS** of the date of filing of this Order. Specifically, said Answer must respond to each of Petitioner's allegations, raise any affirmative defenses, and state whether, from Respondent's perspective, any claim in the Petition is barred by a failure to exhaust state remedies, a procedural bar, non-retroactivity, or a statute of limitations.

Before filing the Answer, Respondent must file those portions of the state-court record needed to adjudicate this case. When the record is filed electronically, the Court's CM/ECF filing system will affix a unique PageID number to each page of the record, displayed in the upper right-hand corner of the page. All papers filed in the case thereafter by either party must include record references to the PageID number. Prior to filing the state-court record, Respondent's counsel must ensure that any borders on parts of the record (typically, court reporter transcripts) do not obscure the PageID number when the page is filed. In addition, the record must be indexed by insertion of "bookmarks" in the .pdf version of the state-court record uploaded to the Court's CM/ECF system that display each exhibit and the name of that exhibit in the record.

As required by Federal Rule of Civil Procedure 5, a complete copy of the Answer and state-court record with the PageID numbers must be served on Petitioner at the time of filing.

Petitioner may, not later than twenty-one days after the Answer is filed, file and serve a reply to the Answer.

The Clerk is **DIRECTED** to serve the Petition on Respondent and the Attorney General of Ohio, Habeas Corpus Unit of the Corrections Litigation Section c/o Brian.Higgins@OhioAGO.gov and Habeas.docketclerk@OhioAGO.gov.

**IT IS SO ORDERED.**

September 13, 2022

*s/Peter B. Silvain, Jr.*

Peter B. Silvain, Jr.

United States Magistrate Judge